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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/532,676

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Yumiko Kato

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03/10/2009

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EXAMINER

SHELEHEDA, JAMES R

ART UNIT

PAPER NUMBER

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/532,676	<b>Applicant(s)</b> KATO ET AL.	
	<b>Examiner</b> JAMES SHELEHEDA	<b>Art Unit</b> 2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,5,7-15,17-20 and 22-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5,7-15,17-20 and 22-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/30/08 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1, 5, 7-15, 17-20 and 22-24 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 7-11, 14, 15, 18-20 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abe et al. (Abe) (US 2005/0039111 A1) (of record) in view of Aoki et al. (Aoki) (US 2005/0055710 A1).

As to claim 1, 14 and 19, Abe discloses a delivery system comprising a delivery apparatus which delivers a program (Fig. 1, 2, paragraph 252),

a receiving apparatus which receives the program (3), wherein said receiving apparatus includes:

a tag unit operable to mark a specific portion of the received program or an object that appears in the program (paragraph 276);

a transmission unit operable to transmit tag information concerning the marked object, to said delivery apparatus (paragraph 240-241, 276, 285), transmission history information indicating a history concerning the transmission of the tag information (user access of additional information for products within the program; see Abe at paragraph 285 and paragraphs 781-782),

said delivery apparatus including:

a first receiving unit operable to receive the transmission history information transmitted from said first transmission unit of said receiving apparatus (240-241, 276, 285, 781-782);

an analysis unit operable to count, based on the transmission history information, frequency of the transmission of the tag information for each program or object and specify a program or object with a high marking frequency (identifying programs/scenes/objects with high request rates; paragraphs 240-241, 276, 285, 780-782), he fails to specifically disclose wherein the receiving apparatus includes a

transmission unit operable to transmit the tag information to at least one of a plurality of communication apparatuses communicating with the receiving apparatus.

In an analogous art, Aoki discloses a communication system (Fig. 1-2) where a viewer will receive a broadcast program at their receiver (121-126) and wherein the user will tag particular sections of the program (paragraphs 102-103, 125-126) and transmit the tag information to other user devices in communication with the viewer's apparatus (paragraphs 126 and 135-137) for the typical benefit of allowing viewers to recommend desirable content via "word of mouth", which can be easily identified and viewed by their friends (paragraphs 9-11 and 126).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Abe's system to include wherein the receiving apparatus includes a transmission unit operable to transmit the tag information to at least one of a plurality of communication apparatuses communicating with the receiving apparatus, as taught in combination with Aoki, for the typical benefit of allowing viewers to recommend desirable content via "word of mouth", which can be easily identified and viewed by their friends.

As to claims 15 and 20, Abe and Aoki disclose wherein said analysis unit is operable to count frequency of the marking for each program or object based on the tag history information, and specify a program or an object with a high marking frequency (see Abe at paragraphs 240-241, 276, 285, 780-782).

As to claim 7, Abe and Aoki disclose wherein the transmission history information includes information for specifying a destination of the tag information and the object (see Abe at paragraphs 270-271),

the purchase information includes information for specifying at least one of said plurality of communication apparatuses and the object (see Abe at paragraphs 270-273), and

said analysis unit is operable to judge that the object is purchased based on the tag information in the case where the destination and the object that are indicated in the transmission history information match respectively to the at least one of said plurality of communication apparatuses and the object that are indicated in the purchase information (see Abe at paragraphs 270-273 and 285).

As to claim 8 and 18, Abe and Aoki disclose wherein said delivery apparatus further includes a program creation unit operable to create a program using a result of the analysis obtained by said analysis unit as a material, and deliver the created program (see Abe at paragraph 277).

As to claim 9, Abe and Aoki disclose wherein said program creation unit is operable to create the program by linking a previously produced program template and the result of the analysis (see Abe at paragraph 277 and paragraph 284).

As to claim 10, Abe and Aoki disclose wherein said second transmission unit, according to a receiving function of said communication apparatus, is operable to select only a portion of the tag information, and transmit the selected information to said communication apparatus (see Abe at paragraphs 283-285 and Aoki at paragraph 126).

As to claim 11, Abe and Aoki disclose wherein said second transmission unit is operable to convert a format of data, from one of a moving picture, a still picture, voice and text (see Abe at paragraphs 283-285 and Aoki at paragraph 126) to another one of the formats (formatted for transmission over the network; see Abe at paragraph 270 and Aoki at paragraph 126), in accordance to the receiving function of said communication apparatus, the data being included in the tag information (see Abe at paragraph 270 and Aoki at paragraph 126).

As to claim 24, Abe and Aoki disclose wherein each of said plurality of communication apparatuses includes:

- a tag unit operable to mark a specific portion of the received program or an object that appears in the program (see Abe at paragraph 276 and Aoki at 126);

- a second transmission unit operable to transmit tag information concerning the marked object to at least one of said plurality of communication apparatuses (see Aoki at paragraph 126); and

- a first transmission unit operable to transmit tag information concerning the marked object, to said delivery apparatus (paragraph 240-241, 276, 285), transmission

history information indicating a history concerning the transmission of the tag information to the at least one of said plurality of communication apparatuses by said second transmission unit (user access of additional information for products within the program; see Abe at paragraph 285 and paragraphs 781-782 and Aoki at paragraph 126).

5. Claims 5, 12, 23, 17, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abe and Aoki as applied above, and further in view of Reynar (7,421,645).

As to claims 5, 17 and 22, while Abe and Aoki disclose a distributor apparatus which distributes online the object that appears in the program (1, see Abe at Fig. 1), said distributor apparatus being connected to said plurality of communication apparatuses via the communication network (audience devices; see Abe at Fig. 1; paragraph 264-266),

wherein each of said plurality of communication apparatus includes:

a receiving unit operable to receive the tag information transmitted from said receiving apparatus (see Aoki at paragraph 125-126 and 135-137); and

a purchase unit operable to purchase the object by communicating with said distributor apparatus (see Abe at Fig. 1; paragraph 264, 272-273), according to information concerning the object included in the tag information received by said receiving unit (see Abe at paragraph 271-272 and Aoki at paragraphs 125-126 and 135-137); and



a transmission unit operable to transmit purchase information concerning the purchase of the object to said delivery apparatus (see Abe at Fig. 1; paragraph 264, 272-273 and 240-241);

said delivery apparatus further includes

a second receiving unit operable to receive the purchase information transmitted from said distributor apparatus (see Abe at Fig. 1; paragraph 264, 272-273 and 240-241),

said analysis unit operable to judge whether or not the object has been purchased based on tag information transmitted from the receiving device (), and in the case where the object has been purchased based on the tag information, specify a program or object with high introduction effect by counting the frequency for each program or object (see Abe at paragraphs 240-241, 276, 285, 780-782), they fail to specifically disclose collating the purchase information received by said second receiving unit with the transmission history information received by said first receiving unit.

In an analogous art, Reynar discloses a system for providing electronic commerce (column 1, lines 23-45) which will receive both purchase information and transmission history information (column 16, line 48-column 17, line 13) and collate the information together to identify purchases based transmission information (linking sales to recommendations; column 16, line 48-column 17, line 13) for the typical benefit of tracking ads and users who are most likely to result in a sale of the product, thus allowing better promotional campaigns (column 16, line 48-column 17, line 13).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Abe and Aoki's system to include collating the purchase information received by said second receiving unit with the transmission history information received by said first receiving unit, as taught in combination with Reynar, for the typical benefit of tracking ads and users who are most likely to result in a sale of the product, thus allowing better promotional campaigns.

As to claim 12, Abe and Aoki disclose wherein each of said plurality of communication apparatuses further includes:

a selection unit operable to select only a portion of the tag information received by said receiving unit, according to functions concerning a display output and voice reproduction of said at least one of said plurality of communication apparatuses (see Aoki at paragraphs 63-68); and

a presentation unit operable to output the selected tag information for display or reproduce the selected tag information in voice (see Aoki at paragraphs 63-68).

As to claim 13, Abe and Aoki disclose wherein said selection unit is further operable to convert a format of data, from one of a moving picture, a still picture, voice and text to another one of the formats (see Abe at paragraphs 283-285 and see Aoki at paragraphs 63-68), in accordance to the functions concerning the display output or voice reproduction of said communication apparatus (see Aoki at paragraphs 63-68),

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the data being included in the tag information received by said receiving unit (see Abe at paragraphs 283-285 see Aoki at paragraphs 63-68).

As to claim 23, Abe, Aoki and Reynar disclose wherein the transmission history information includes information for specifying a destination of the tag information and the object (see Abe at paragraphs 270-271),

the purchase information includes information for specifying at least one of said plurality of communication apparatuses and the object (see Abe at paragraphs 270-273), and

said analysis unit is operable to judge that the object is purchased based on the tag information in the case where the destination and the object that are indicated in the transmission history information match respectively to the at least one of said plurality of communication apparatuses and the object that are indicated in the purchase information (see Abe at paragraphs 270-273 and 285).

### ***Conclusion***

6. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. ( ) \_\_\_\_\_ - \_\_\_\_\_ on \_\_\_\_\_.  
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Signature: \_\_\_\_\_

Registration Number: \_\_\_\_\_

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES SHELEHEDA whose telephone number is (571)272-7357. The examiner can normally be reached on Monday - Friday, 9:00AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/James Sheleheda/  
Examiner, Art Unit 2424

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